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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,789	01/19/2001	Timothy Robinson	129510.11401	1385
21269	7590	11/26/2007		
PEPPER HAMILTON LLP ONE MELLON CENTER, 50TH FLOOR 500 GRANT STREET PITTSBURGH, PA 15219			EXAMINER SWARTZ, JAMIE H	
			ART UNIT 3694	PAPER NUMBER
			MAIL DATE 11/26/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/765,789

Applicant(s)

ROBINSON, TIMOTHY

Examiner

Jamie H. Swartz

Art Unit

3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 59-79 is/are pending in the application.
- 4a) Of the above claim(s) 68-79 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 59-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/6/2007.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status

1. This action is in response to the amendment filed on August 6, 2007. Claims 59-67 are currently pending. Claims 59 and 66 are amended. Claims 1-58 are cancelled. Claims 68-79 were withdrawn.

Response to Arguments

2. Applicant's arguments with respect to claims 59-67 have been considered but are moot in view of the new ground(s) of rejection.

Specification

3. The amendment filed August 6, 2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Claims 59 and 66 claim that the identification number is received without using a physical access device possessed by the third party. The original disclosure does not state that the identification number does not come from a physical access device. The only reference made to a physical access device that is made in the original disclosure appears in ¶ 39 and states "Accordingly, if a physical access device for the value account (check, debit card, credit card, check etc.) is lost or stolen, and then used in another country, that use could be denied based upon the geographic limitations placed on the account by the

primary account holder and further denied by virtue of the fact that the biological indicator would not allow the unauthorized third party to access the funds in the first instance." Thus the discussion of the physical access device not being used is new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 59-67 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The original disclosure does not state that the identification number does not come from a physical access device. The only reference made to a physical access device that is made in the original disclosure appears in ¶ 39 and states "Accordingly, if a physical access device for the value account (check, debit card, credit card, check etc.) is lost or stolen, and then used in another country, that use could be denied based upon the geographic limitations placed on the account by the primary account holder and further denied by virtue of the fact that the biological indicator would not allow the unauthorized third party to access the funds in the first

instance.” Thus the discussion of the physical access device not being used is new matter.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 59-67 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Regarding claims 59 and 66, the phrase "storing the biological sample in a computer-readable storage medium" renders the claim indefinite because it is unclear what the applicant is referring to as a biological sample. The applicant fails to define a "biological sample" in the specification. Based on the broadest interpretation of a biological sample the applicant could be claiming a key stroke, odor, or even a saliva sample. Each of these are examples of biological samples. However, the language of the claims states that the biological sample is stored on a computer-readable storage medium. A key stroke, odor, a saliva sample, or even a finger print can't be saved on a storage medium. An image of the finger print could be stored.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 59-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Picciallo (US 6044360 A) in view of Lapsley et al. (US 20010000535 A1).

10. Regarding claim 59, Picciallo teaches a method for providing approval for a third party to access a value account controlled by a primary account holder (col. 2, line 15 – col. 12, line 50). Picciallo teaches receiving, at a merchant device, a system identification number (col. 2, line 15 – col. 12, line 50). Picciallo does not include the specific details about a biological sample. However, Lapsley teaches a biological sample proffered by the third party (¶¶ 33-193). Lapsley teaches wherein the system identification number is received without using a physical access device possessed by the third party (¶¶ 33-193). Lapsley includes details of a PIN. As defined in the specification the identification number only need be a unique number chosen by the customer, thus a PIN is a unique identification number. Lapsley teaches storing the biological sample image in a computer-readable storage medium (¶¶ 33-193). Lapsley teaches transmitting said system identification number to a central database (¶¶ 33-193). Lapsley teaches receiving in response to said transmission, registered biological identification data that corresponds to said system identification number; and verifying an identity of the third party, said verifying being based on a comparison at said merchant device of data derived from the proffered biological sample to said registered biological identification data (¶¶ 33-193). Picciallo teaches an account system with a

primary and secondary user. Lapsley teaches an account system which has a sophisticated identification and security system. Picciallo does include details of a physical card that is used. Picciallo teaches a primary secondary account system where the secondary user has access to the primary account. Upon combining Picciallo which uses cards and Lapsley which does not use cards the Picciallo/Lapsley has the benefit of a transaction system without the risk of losing a card which could result in possible fraud. It would have been obvious to one of ordinary skill in the art to try a more sophisticated transaction system by combining Picciallo and Lapsley to increase security and ease of the transaction. Biometrics are proving themselves reliable, time efficient, affordable, money saver, and easy to use. At the time of the invention biometrics was an up and coming technology as aging baby boomers concerned with memory loss were eagerly seeking an alternative to remembering passwords, numerical systems, and their car keys.

11. Regarding claim 60, Picciallo teaches assessing whether the third party is permitted to access the value account based upon conditions set by the primary account holder (col. 2, line 15 – col. 12, line 50).

12. Regarding claim 61, Picciallo teaches wherein one of the conditions set by the primary account holder is an amount that can be accessed by the third party (col. 2, line 15 – col. 12, line 50).

13. Regarding claim 62, Picciallo teaches wherein one of the conditions set by the primary account holder is an amount that can be accessed during a period or range of time (col. 2, line 15 – col. 12, line 50).

14. Regarding claim 63, Picciallo teaches wherein one of the conditions set by the primary account holder is permitted geographical locales from which the value account may be accessed (col. 2, line 15 – col. 12, line 50).

15. Regarding claim 64, Picciallo teaches wherein one of the conditions set by the primary account holder is the type of merchants from which the value account may be accessed (col. 2, line 15 – col. 12, line 50).

16. Regarding claim 65, Picciallo teaches wherein one of the conditions set by the primary account holder is a category of goods or services for which the value account can be accessed (col. 2, line 15 – col. 12, line 50).

17. Claims 66-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lapsley et al. (US 20010000535 A1) in view of Picciallo (US 6044360 A).

18. Regarding claim 66, Lapsley teaches a biological sample proffered by the third party (¶ 33-193). Lapsley teaches wherein the system identification number is received without using a physical access device possessed by the third party (¶ 33-193). Lapsley

includes details of a PIN. As defined in the specification the identification number only need be a unique number chosen by the customer, thus a PIN is a unique identification number. Lapsley teaches storing the biological sample image in a computer-readable storage medium (§ 33-193). Lapsley teaches transmitting said system identification number to a central database (§ 33-193). Lapsley teaches verifying an identity of the third party, the verifying being based on a comparison at the merchant device of data derived from the proffered biological sample to registered biological identification data that corresponds to the system identification number (§ 33-193). Lapsley teaches wherein said registered biological identification data is retrieved from said merchant device (§ 33-193). Lapsley does not specifically teach the details of a primary account which allows access by a second individual. However, Picciallo teaches a method for providing approval for a third party to access a value account controlled by a primary account holder (col. 2, line 15 – col. 12, line 50). Lapsley teaches an account system which has a sophisticated identification and security system. Picciallo teaches an account system with a primary and secondary user. Picciallo does include details of a physical card that is used. Picciallo teaches a primary secondary account system where the secondary user has access to the primary account. Upon combining Lapsley which does not use cards and Picciallo which uses cards the Lapsley/Picciallo combination has the benefit of a system of secure multiple accounts. Lapsley attempts to create a more secure system, adding a second account adds functionality. It would have been obvious to one of ordinary skill in the art to try more accounts using Lapsley to increase the benefits to the customer. Multiple accounts with the third party having limited access

to the account protects the primary account holder from the third party over spending or spending on unapproved items. It allows parents the ability to give their child an account, which the parent can watch and limit the use of.

19. Regarding claim 67, Lapsley teaches if the identity of the party is not verified by the comparison of data derived from the proffered biological sample to the registered biological identification data stored at said merchant device (col. 2, line 15 – col. 12, line 50). Lapsley teaches transmitting said system identification number to a central database (col. 2, line 15 – col. 12, line 50). Lapsley teaches receiving in response to the transmission, centrally accessible registered biological identification data that corresponds to the system identification number (col. 2, line 15 – col. 12, line 50). Lapsley teaches verifying an identity of the party, said verifying being based on a comparison at said merchant device of data derived from the proffered biological sample to said centrally accessible registered biological identification data (col. 2, line 15 – col. 12, line 50). Lapsley does not specifically teach the details of a primary account which allows access by a second individual. However, Picciallo teaches third party to access a value account controlled by a primary account holder (col. 2, line 15 – col. 12, line 50). Lapsley teaches an account system which has a sophisticated identification and security system. Picciallo teaches an account system with a primary and secondary user. Picciallo does include details of a physical card that is used. Picciallo teaches that there existed at the time of the invention a primary secondary account system where the secondary user has access to the primary account. Upon

combining Lapsley which does not use cards and Picciallo which uses cards the Lapsley/Picciallo combination has the benefit of a system of a secure multiple accounts. Lapsley attempts to create a more secure system, adding a second account adds functionality. It would have been obvious to one of ordinary skill in the art to try a more accounts using Lapsley to increase the benefits to the customer. It allows parents the ability to give their child an account, which the parent can watch and limit the use of.

20. Examiner's Note: The Examiner has cited particular columns and line numbers in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamie H. Swartz whose telephone number is (571) 272-7363. The examiner can normally be reached on 8:00am-4:30pm Monday-Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Jamie Swartz
November 18, 2007


STELLA COLBERT
PRIMARY EXAMINER